

PAUL J. FISHMAN
United States Attorney
ANNE B. TAYLOR
Assistant U.S. Attorney
401 Market Street
P.O. Box 2098
Camden, NJ 08101
(856) 757-5031
Attorneys for Defendants
Hasmukhbhai Patel, M.D.,
Raghuraj Tomar, M.D., and
CompleteCare Health Network

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ESTATE OF LYNETTE SMITH,	:
	:
Plaintiff,	: HONORABLE
	:
v.	: Civil Action No.
	:
RILEY, D.O., at al.	: NOTICE OF REMOVAL
	:
Defendants.	:
	:

TO: Thomas Connelly, Jr., Esquire
The Connelly Firm
2090 Marlton Pike E
Cherry Hill, NJ 08003
Attorney for Plaintiff

Emily Graybill, Esquire
Grossman & Heavey, P.C.
Brick Professional Plaza
1608 Highway 88 West
Suite 200
Brick, NJ 08724
Attorney for Defendant South Jersey Healthcare

Steve Drake, Esquire
Drake Law Firm, P.C.
29 North Shore Rd.
Absecon, N.J. 08201
Counsel for Dr. Joseph J. Riley, D.O.

Stahl & DeLaurentis
10 E Clements Bridge Rd.
Runnemede, NJ 08078
Attorneys for Defendants Dr. Elis Priori, M.D. and Dr. Naeem Amin, M.D.

PLEASE TAKE NOTICE that this case, previously pending in the New Jersey Superior Court, Law Division, Cumberland County, Docket No. L-457-12, is hereby removed to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). The United States of America is hereby substituted for removing Defendants Hasmukhbhai Patel, M.D., Raghuraj Tomar, M.D., and Community Health Care, Inc., d/b/a CompleteCare Health Network (incorrectly identified as “CompleteCare Health Solutions, LLC”) (collectively “Federal Defendants”), pursuant to 28 U.S.C. § 2679(d)(1) and 42 U.S.C. § 233(c) and (g), with respect to all of the claims set forth against those parties in the Complaint. The United States of America, by and through its undersigned attorneys, respectfully state the following in support of the removal of this matter:

1. The Complaint was filed in the New Jersey Superior Court, Law Division, Cumberland County, on or about May 22, 2012. See Exhibit A (State Court Docket). An Amended Complaint was filed on February 28, 2014. See Exhibit B

(State Court Amended Complaint). The trial has not yet occurred. See Docket, Ex. A. Service of process has not been effected upon the Federal Defendants in the manner specified in and required under Fed. R. Civ. P. 4(i).

2. Plaintiff has filed this civil action seeking damages from the Federal Defendants for personal injuries she allegedly sustained as the direct and proximate result of the Federal Defendants' alleged negligence (i.e., medical malpractice).

3. At all times relevant to this Complaint, the Federal Defendants were deemed employees of the United States pursuant to 42 U.S.C. § 233(g). See Exhibit C (Declaration of Meredith Torres).

4. This action is deemed to be an action against the United States because the Federal Defendants were acting within the scope of employment as employees of the United States pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). See Exhibit D (Certification of Scope of Employment).

5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73), and Section 2679(b) of Title 28 of the United States Code, as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Public Law 100 694), provide that the Federal Tort Claims Act ("FTCA") is the exclusive remedy for tort claims against the United States.

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).

7. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Cumberland County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). See Exhibit E (Letter to Clerk of New Jersey Superior Court).

PAUL J. FISHMAN
United States Attorney

s/*Anne B. Taylor*
By: ANNE B. TAYLOR
Assistant U.S. Attorney

Dated: November 20, 2014